UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

ROUNDY'S INC,

CASE 30-CA-17185

and

MILWAUKEE BUILDING AND CONSTRUCTION TRADES COUNCIL, AFL-CIO

BRIEF OF THE INTERNATIONAL FOODSERVICE DISTRIBUTORS ASSOCIATION IN SUPPORT OF RESPONDENT

Dale L. Deitchler
Mark W. Schneider
LITTLER MENDELSON, P.C.
80 S. 8th Street
Suite 1300
Minneapolis, Minnesota 55402
Telephone: (612) 630-1000

Counsel for Amicus Curiae
International Foodservice Distributors Association

January 7, 2011

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

Page

Cases

Page

INTEREST OF THE *AMICUS CURIAE*

The International Foodservice Distributors Association (IFDA), the trade association representing foodservice distributors throughout North America and internationally whose membership includes leading broadline, system and speciality distributors, works to help foodservice distributors succeed. IFDA's members operate more than 700 distribution facilities, providing hundreds of jobs in each of their communities. IFDA's members make the food away from home industry possible, ensuring food safety in the delivery of food and other related products to restaurants and, importantly, institutions that depend critically on unimpeded supplies in the service of their clientele (e.g., nursing homes, hospitals, military mess halls, school cafeterias).

IFDA's interest in this case is primarily to secure private property rights of its members and their customers consistent with and as recognized by extant U.S. Supreme Court and federal appellate court authority, as well as National Labor Relations Board ("NLRB" or "Board") authority under the National Labor Relations Act ("NLRA" or "the Act") preceding and following the Board's erroneous decision in Sandusky Mall Co., 329 N.L.R.B. 618, 623 (1999), enf. den., 242 F. 3d 682 (6th Cir. 2001). Additionally, IFDA's members and their clients, like many other employers, are strong supporters of various charitable interests, which are and continue to be threatened if the Board were to re-affirm Sandusky Mall.

QUESTIONS PRESENTED

Pursuant to the Board's November 12, 2010 *Notice and Invitation to File Briefs*, the Board invited interested *amici* to file briefs on the following questions:

1. In cases alleging unlawful employer discrimination in nonemployee access, should the Board continue to apply the standard articulated by the Board majority in Sandusky Mall Co., 329 N.L.R.B. 618 (1999)?

2. If not, what standard should the Board adopt to define discrimination in this context?

3. What bearing, if any, does Register Guard, 351 NLRB 1110 (2007), enf. denied in part 571 F.3d. 53 (D.C. Cir. 2009), have on the Board's standard for finding unlawful discrimination in nonemployee access cases?

ARGUMENT

In cases alleging unlawful employer discrimination in denying nonemployee access, the Board should not apply the standard it articulated in Sandusky Mall. The Sandusky standard, departing from Board precedent, fails to qualitatively define the Babcock "discrimination" exception (if that exception applies at all to area standards activity). See Sandusky Mall, 329 N.L.R.B. at 626, Member Brame dissenting (lack of guidance distinguishing among similar solicitation types leaves employers wondering, "what's an employer to do?").

Consistent with Members Hurtgen's and Brame's dissents in Sandusky, approved by numerous courts of appeal, a new nonemployee access standard should issue,

specifically finding first and foremost that no employer need ever countenance consumer boycotts on its private property, as such conduct is so inimical to a property owner's business interest that access would be denied, regardless of the identity of the boycotter. This new standard should, at the same time, exclude from the discrimination exception nonemployee access denials when access is unrelated to organizing, or alternatively apply a much narrower similarity/comparability standard (as did the Board in Register Guard, an employee access case where section 7 rights were paramount), allowing employers to make distinctions between beneficial versus detrimental solicitations.

I. The "Heavy" Burden Unions Carry Under U.S. Supreme Court Standards On Nonemployee Access.

For over fifty years, the U.S. Supreme Court has recognized an employer's right to deny nonemployees access to private property so long as such denial is not discriminatory (hereinafter, "the discrimination exception"). NLRB v. Babcock & Wilcox Co., 351 U.S. 105, 112 (1956) ("employer may validly post" property against nonemployee distribution of union literature if employer "does not discriminate against the union by allowing other distribution").

As a "rule" then, as reaffirmed in the Court's decision in Lechmere, Inc. v. NLRB, 502 U.S. 527 (1995), "an employer cannot be compelled to allow distribution of union literature," by nonemployees on private property. Id. at 533-34 ([w]hile Babcock indicates that an employer may not always bar nonemployee[s] . . . his right to do so remains the general rule"). At all times, under Lechmere, nonemployee union agents retain a "heavy" burden to gain access to private property, evidenced by fact that "trespassory" activity has "rarely" been upheld, Id., including, significantly, in the

Sandusky Mall case itself on appeal. 242 F.3d at 692; see also, Salmon Run Shopping Center, LLC, v. NLRB, 534 F.3d 108 (2d Cir. 2008);[1] Riesback Food Markets, Inc. v. NLRB, 1996 U.S. App. LEXIS 17693 (4th Cir. 1996); NLRB v. Pay Less Drug Stores Northwest, Inc., 1995 U.S. App. LEXIS 17063 (9th Cir. 1995).

The Board should overrule Sandusky and embrace, as these courts have, a much narrower approach to nonemployee union access to private property, particularly in the context of a consumer boycott of the business of the employer denying access.

II. The Nonemployee Access Discrimination Exception Should Never Apply to A Consumer Boycott as Access Denial In Such Circumstances is Not "Discrimination."

The nonemployee access discrimination exception should never apply to a consumer boycott as access denial in such circumstances is not "discrimination." This was recognized by Member Hurtgen in his dissent in Sandusky Mall. Fundamentally, no private property owner would permit or allow any boycott of business conducted upon the property, i.e., a boycott would be prohibited conduct by a union, just as, "it would be forbidden activity by anyone," "irrespective of the identity of the boycotter." Sandusky Mall, 329 N.L.R.B. at 623 (Member Hurtgen dissenting). Member Hurtgen's reasoning, which the Board should now adopt, should dictate that in no circumstances need an employer countenance a consumer boycott on its premises by nonemployees, and that a prohibition on such activity does not violate the Act because, "there is [no] discrimination." Id.[2]

[1] Other Sixth Circuit decisions are in accord. See Albertson's Inc. v. NLRB, 301 F.3d 441 (6th Cir. 2002); Cleveland Real Estate Partners v. NLRB, 95 F.3d 457 (6th Cir. 1996); Oakwood Hospital v. NLRB, 983 F.2d 698 (6th Cir. 1993).

[2] In the rare/doubtful case in which, e.g., a union could show by clear and convincing evidence that an employer knowingly permitted an on-premises consumer boycott of itself, some limited exception to this

III. The Discrimination Exception Should Not Apply at All, Or in the Alternative a Narrower Standard Should Apply Than Established By Sandusky Mall, to Nonemployees Not Engaged In Organizing Activities.

The discrimination exception should not apply at all, or in the alternative a much narrower standard should apply than established by Sandusky Mall, to nonemployees not engaged in organizing activities. Cf. Sears, Roebuck & Co. v. San Diego County Dist. Council of Carpenters, 436 U.S. 180, n. 42 (1978) ("serious" question whether area-standard protest is entitled to same deference under Babcock as organizational activity). As the Court explained in Sears, trespassory conduct in support of area standards challenges are, "less compelling than that for trespassory organizational solicitation.." Id.

In questioning deference if any to be paid to non-organizational activity as protected under the National Labor Relations Act, the Sears Court reasoned in part, that, "the right to organize is at the very core of the purpose for which the NLRA was enacted," and Babcock itself, "makes clear that the interests being protected by according limited-access rights to nonemployee union organizers are not those of the organizers but of the employees located on the employer's property." Id. (area standards picketing has no such vital link to employees located on the property); see also, Lechmere, 502 U.S. at 532 ("By its plain terms, . . . the NLRA confers rights only on *employees*, not on unions or their nonemployee organizers).

Post-Lechmere, federal courts of appeals have raised concerns about the extent if any non-organizational activity is protected and subject to the discrimination exception. See, e.g., Be-Lo Stores v. NLRB, 126 F.3d 268, 284 (4th Cir. 1997) ("[W]e seriously

---

standard might be appropriate. On an issue related to this proposed standard, requiring a specific written policy prohibiting consumer boycotts would be like requiring a written policy against theft – conduct on private property so clearly and directly inimical to an employer's business interests should not need to be memorialized in writing. Still, if the standards urged herein are adopted, most if not all of the amicus curiae would readily adopt such a policy.

doubt, as do our colleagues in other circuits, that the Babcock & Wilcox disparate treatment exception, post-Lechmere, applies to non-employees who do not propose to engage in organizational activities) citing Cleveland Real Estate Partners v. NLRB, 95 F.3d 457, 465 (6th Cir. 1996); see also, Salmon Run Shopping Center, LLC v. NLRB, 534 F.3d 108, 114-16 (2d Cir. 2008) (proposed literature distribution approached "unprotected end of . . . spectrum" as union's audience was "general public" and no employees targeted for message).

Nonemployee access rights to an employer's private property are, as here, at their "nadir" when nonemployees wish to engage in protest or economic activities, as opposed to organizational activities. Be-Lo Stores 126 F.3d at 268 (Board erred in finding Section 8(a)(1) violation relative to employer's injunction action to expel union denying enforcement of Board decision finding employers' action unlawful,[3] Accordingly, the discrimination exception should not apply at all in this context or in the alternative a very narrow discrimination exception standard, as more fully articulated in Part IV infra, should apply. For this reason as well, Sandusky Mall should be overturned.

IV. A Similarity/Comparability Standard Should Apply to Nonemployee Access Cases, Allowing Employers to Distinguish Between Beneficial and Detrimental Solicitations.

The nonemployee access discrimination exception should apply a comparability standard, as the Board (including in Register Guard) and Courts have done both prior to and after Sandusky Mall, and allow employers to distinguish between beneficial and detrimental solicitations. Only a comparability standard meaningfully captures what lies at the core of the Babcock discrimination exception, namely, that the, "concept of discrimination involves the unequal treatment of equals." Register Guard, 351 N.L.R.B.

[3] See also, UFCW v. NLRB, 74 F.3d 292, 300 (D.C. Cir. 1996).

at 1117 citing Guardian Industries, 49 F.3d 317, 319 (7th Cir. 1995).

A. Courts Have, In Denying Enforcement of Board Orders On Nonemployee Access Cases, Applied A Comparability Standard, Recognizing the Prerogative To Deny Nonemployee Access for Detrimental Solicitations.

Numerous federal courts have, in denying enforcement of Board orders on nonemployee access cases, applied a comparability standard in interpreting the discrimination exception, before and after (and in) Sandusky Mall.[4] Sandusky Mall Co. v. NLRB, 242 F.3d 682 (6th Cir. 2001); NLRB v. Pay Less Drug Stores Northwest, Inc., 57 F.3d 1077 (9th Cir. 1995); Riesback v. NLRB, 91 F.3d 132 (4th Cir. 1996); Salmon Run Shopping Center, LLC, v. NLRB, 534 F.3d 108 (2d Cir. 2008). According to these courts, absent access denial in like solicitations, there is no discrimination in access – and no violation of the Act. Applying this standard, in turn, no NLRA violations were found when employers rejected union access causing economic harm while allowing charitable and civic access/solicitations generating good will (and customer traffic), or even for the sake of altruism.

The Board's decision in Sandusky Mall established a "standard" on nonemployee access so perfectly true and general that it is meaningless as a basis for determining whether the "discrimination" exception applies under the Act, as the dissenters and then the Sixth Circuit, recognized. There, a union conducted handbilling at Sandusky Mall advocating a consumer boycott of a tenant utilizing a remodeling contractor it alleged failed to pay area standard wages and benefits. 329 N.L.R.B. 618 (1999). The mall

[4]The Sixth Circuit, before and after Sandusky Mall, has been steadfast in its comparability jurisprudence on nonemployee access. See Albertson's Inc. v. NLRB, 301 F.3d 441 (6th Cir. 2002) (no discrimination occurred when employer prohibited access to nonemployee organizers, but in contrast permitted charitable solicitation); Cleveland Real Estate Patterns v. NLRB, 95 F.3d 457 (6th Cir. 1996) (no unlawful discrimination when mall owners forbade access to union boycotters, while permitting charitable solicitations since distinction based on the character of the activity, rather than on the identity of the actor).

owner, pursuant to a no-access policy adopted in response to Lechmere, refused access to the handbillers. Id. 329 N.L.R.B. at 618-19. Before and after the handbilling, the mall allowed charitable, civic, and other organizations access, generally determining access based on whether the solicitor created an economic benefit to the mall or its tenants. Id.

The Sandusky Mall Board adhered to its "all solicitation is alike" view, ruling that, "an employer that denies a union access while regularly allowing nonunion organizations to solicit and distribute on its property unlawfully discriminates against union solicitation." 329 N.L.R.B. at 620. The Board simplistically found permitted all "solicitation by various organizations" to be commensurate with union "solicitation," then easily finding, "sufficient proof of disparate treatment." Id. at 621.

Members Hurtgen and Brame dissented, Member Hurtgen endorsing an employer's ability to make judgments as to whether access would yield economic benefit to the mall weighed against economic detriment. In this vein, Member Brame concluded that unlawful discrimination must be "among comparable groups or activities," then formulated a business purpose analysis which at its core recognizes that, "employers must be able to make distinctions . . . to the extent that mall business may be negatively affected" by one type of solicitation versus another. 329 N.L.R.B. at 626, 628 (emphasis added).

Member Brame, borrowing from the U.S. Supreme Court's decision in Perry Education Assn. v. Perry Local Educators' Assn., 460 U.S. 37 (1983) noted that "even" a public school district could restrict public property for its intended purpose, and so also could a private property owner, not subject to exacting constitutional and first amendment speech restrictions, "insist that those coming to its property use it in ways

consistent with and beneficial to that purpose." 329 N.L.R.B. at 627.

On appeal, the Sixth Circuit in Sandusky Mall agreed with the Members Hurtgen and Brame, and denied enforcement. The court, drawing extensively from Member Brame's dissent and a prior decision in comparable circumstances,[5] ruled that discrimination does not occur when an employer may denies nonemployee access when it draws distinctions between and among comparable solicitations, barring access to solicitations that "negatively affect[]" a property owners' business, but permitting those that are neutral or positively affect the business. 242 F.3d at 690.

Other federal appeals courts have, like the Sixth Circuit, applied a comparability analysis, recognizing employers' rights to deny access if an organization seeks to "harm that business." See NLRB v. Pay Less Drug Stores Northwest, Inc., 57 F.3d 1077 (9th Cir. 1995). In Pay Less, the Ninth Circuit held that a mall did not discriminate against a union when it allowed numerous other but dissimilar solicitations (e.g. the Girl Scouts, a bloodmobile, school or athletic sponsored bike rides, a carwash/fundraiser, competition by a classic car club, an annual "coats for kids" drive and advertisements for civic events). In refusing to find an NLRA violation, the Ninth Circuit, like Member Brame, relied in part, by comparison, on U.S. Supreme Court precedent established in Perry under the U.S. Constitution.

Comparing an employer's private property to a non-public forum in which free speech rights may be limited and reserved for a property's intended purpose, the Pay-Less court summarized Perry and its similar use standard: "an employer may open its internal mail system to communications about civic and church meetings without thereby

[5] Cleveland Real Estate Partners v. NLRB, 95 F.3d 457, 465 (6th Cir. 1996)

being compelled to open it to union notices as well, because the employer is only obligated to allow similar use of its facilities." Id. (emphasis supplied).

Borrowing the Perry framework, the Pay-Less court distinguished access under the Act for altruistic or good will purposes from access seeking to "harm that business," finding no similarity between the former and the latter:

> A business should be free to allow local charitable and community organizations to use its premises, whether for purely altruistic reasons or as a means of cultivating good will, without thereby being compelled to allow the use of those same premises by an organization that seeks to harm that business. . . .
>
> As there is no similarity between the conduct complained of and that permitted by the Respondents, we conclude that the NLRB incorrectly interpreted and applied the Act to the facts of this case.
>
> Id. (emphasis supplied).

In Riesback v. NLRB, 91 F.3d 132 (4th Cir. 1996), the employer denied access to union agents asking the public to boycott the employer. Since the employer acted on the basis of this activity, rather than on the basis of the union's being the actor, there was no discrimination (i.e., "discrimination claims inherently require a finding that the employer treated similar conduct differently").

Broadly analyzing "solicitation" against "solicitation" is simply not enough. Said the Riesback court, in finding the union's "don't patronize" message dissimilar to permitted civic and charitable solicitation: "an employer must have some degree of control over the messages it conveys to its customers on private property." Id. Like the Ninth Circuit, the court in Riesback borrowed from the Supreme Court's decision in Perry, 1996 U.S. App. LEXIS 17693 at **12-13 (school in Perry created limited forum that might be open for use engaging in activities of interest and educational relevance to students, but not union concerned with terms and conditions of employment).

The owner of private property, like the government employer in Perry, the Riesback court concluded, was free to limit access to "activities compatible with the intended use of the property." Thus, concluded the Fourth Circuit, distinguishing between a harmful consumer boycott incompatible with the intended purpose of the property (to sell goods and services) and charitable solicitations which encourage business activity is both "reasonable" and lawful. Id.; see also, Be-Lo Stores v. NLRB, 126 F.3d 268 (4th Cir. 1997) ("no relevant labor policies are advanced by prohibiting an employer from allowing charitable solicitations if it excludes nonemployee union distributions). Cf. Guardian Industries, 49 F.3d 317 (7th Cir. 1995) (employer permitted "swap and shop" notices on its bulletin board; union's meeting announcements not comparable to "swap and shop" notices, and thus there was no discrimination in prohibiting them).[6]

Finally and most recently, in Salmon Run Shopping Center, LLC, v. NLRB, 534 F.3d 108 (2d Cir. 2008), the Second Circuit denied enforcement of a Board order concluding that a mall owner violated the Act when it: 1) refused to allow the Carpenters union to distribute literature, informing the union that the mall welcomed "civic, charitable, or other organizations to solicit in the common areas of the mall when solicitation will benefit both the organization and the tenants"; and 2) concluded that "[b]ased upon these criteria, [it was]unable to grant" access. 534 F.3d at 112.

Echoing Lechmere, the Second Circuit in Salmon Run emphasized the "heavy"

[6] The Seventh Circuit in Guardian Industries applied, then, a similarity or comparability standard to certain employee solicitation, which receives greater protection under the Act than nonemployee solicitation. See, i.d. (a "person making a claim of discrimination must identify another case that has been treated differently and explain why that case is the same in the respects the law deems relevant or permissible grounds of action). A fortiori under Guardian Industries as well as Register Guard, discussed below and which also applies a comparability/similarity standard, such a standard should apply to nonemployee solicitation as nonemployees should have no greater rights than employees under the Act.

burden a union faces in demonstrating an access right and establishing the discrimination exception, citing the appellate court decisions in Sandusky Mall, Be-Lo Stores, and Guardian Industries. Consistent with those decisions, the court properly determined that the, "focus of the discrimination analysis under section 7 of the Act must be upon disparate treatment of two like persons or groups." 534 F.3d at 116 (emphasis added). The standard for assessing discrimination in comparing like persons or groups, "must take account of the general rule that a private property owner need not provide a forum for expression on its property and may be arbitrary and inconsistent in its selection of speakers, id., citing Hudgens v. NLRB, 424 U.S. 507, 520-21 (1976). An employer simply cannot discriminate against similarly situated selected speakers. See id.

Thus, to amount to Babcock-type discrimination, a private property owner, according to the Salmon Run court, must treat a nonemployee seeking communication on a section 7 protected subject less favorably than another person communicating on the same subject. Id. (the, "disparate treatment must be shown between or among those who have chosen to enter the fray by communicating messages on the subject"). Charitable or educational solicitations, the Salmon Run court concluded under the same subject standard, did not, "serve as valid comparisons" to the Carpenters' Union distribution of literature touting apprenticeship program benefits or challenging alleged failure to pay area standard wages. Id.[7]

The foregoing precedent as established in multiple federal appellate court

[7]Numerous other Courts of Appeal have also embraced a similarity/comparability standard in applying the discrimination exception. See 6 West Ltd. Corp. v. NLRB, 237 F.3d 769, 779-780 (7th Cir. 2001), denying enf. 330 NLRB 527 (2000) (solicitations for girl scout cookies, Christmas ornaments, and hand-painted bottles not comparable to union solicitation); Four B Corp. v. NLRB, 163 F.3d 1177, 1183 (10th Cir. 1998) ("an employer may not discriminate in violation of section 8(a)(1) by denying "union access to its premises while allowing similar distribution or solicitation by nonemployee entities other than the union.") (emphasis added); Lucile Salter Packard Children's Hosp. v. NLRB, 97 F.3d 583, 587 (D.C. Cir. 1996) (same).

decisions compels setting aside the Sandusky Mall standard in nonemployee access cases. In its place, the Board should adopt the Sandusky Mall dissenters' and these courts' standard, which would only find unlawful discrimination in disparate treatment of comparably situated solicitors, and recognize the right of employers to make distinctions between benign or beneficial solicitations and detrimental solicitations.

This is not, we would observe, a calculus of simply choosing whom an employer "likes" and whom an employer "dislikes" as suggested by the Sandusky Mall majority. Rather, as Member Brame and these courts' analysis reveal, detailed business and benign versus detrimental/harmful distinctions can be drawn upon which the proposed standard could be meaningfully observed and administered.

B. Board Decisions Preceding and Following Sandusky Mall, including Register Guard (An Employee Access Case) Support A Comparability Standard.

Many Board decisions preceding and following Sandusky Mall, including Register Guard (an employee access case), support a comparability standard. Prior to See, e.g., Farm Fresh Inc., 326 N.L.R.B. 997, 1000 (1998) (unlawful no-access discrimination finding requires "showing of treating similar conduct differently"; no violation if access denied for "comparable conduct" and no evidence of "similar solicitation" by any other group); Teletech Holdings, Inc., 342 N.L.R.B. 924 (2004); Register Guard, 351 N.L.R.B. 1110 (2007), enf. den in part 571 F. 3d 53 (D.C. Cir. 2009).

In Register Guard (an employee access case which the invitation to file briefs focuses on), the Board specifically reaffirmed that it would apply its disparate treatment analysis to "*communications of a similar character*." Id. at 1118. Under that comparability standard and similar to the court decisions discussed *supra*, the Board in

Register Guard found that legitimate distinctions could be drawn between "business-related use" and "non-business-related use" of an employer's e-mail system, and as and between other types of solicitations, such as charitable solicitations versus non-charitable solicitations. Id.

To violate these standards, again similar to the specific analysis set forth in detail in the appellate court decisions discussed *infra,* the Register Guard Board further indicated that an employer would have to engage in disparate treatment as between two unions, or as between union supporters and individuals opposing a union or unions. Id. As a comparability/similarity standard is applied in Register Guard in the context of employee access and solicitation issues, which receive far greater protection under the Act, any new nonemployee access standard should, likewise at a minimum apply such a standard, as nonemployees should not be afforded greater rights than employees.[8]

CONCLUSION

For the foregoing reasons, IFDA respectfully requests that the Board in this case overturn its decision in Sandusky Mall. In its stead, the Board should recognize employers' unfettered right to exclude nonemployee boycotters from private property, exclude from entirely from the discrimination exception nonemployee access demands unrelated to organizing, and in any event apply to all nonemployee access cases a more stringent comparability/similarity standard to the discrimination exception for such activity. Such a standard should, at bottom, recognize an employer's right to make distinctions between like solicitations that are either benign or are beneficial to the

[8]The Board's decision in this is case, particularly given the divergent issues and factors applicable as between employee and nonemployee access, should not disturb or erode Register Guard which was correctly decided. Rather, the decision in the case before the Board should conform standards in nonemployee access cases, where section 7 rights if any exist on a more limited basis, to the comparability standards established in Register Guard.

property's intended purpose and solicitations which in contrast are detrimental/harmful to that purpose.

Respectfully submitted this 7TH day of January, 2011.

/s/ Dale L. Deitchler
Dale L. Deitchler
Mark W. Schneider
LITTLER MENDELSON, P.C.
80 S. 8th Street
Suite 1300
Minneapolis, Minnesota 55402
Telephone: (612) 630-1000

Counsel for Amicus Curiae
International Foodservice Distributors Association

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of December, 2010, I caused a true and correct copy of the foregoing **BRIEF OF INTERNATIONAL FOODSERVICE DISTRIBUTORS ASSOCIATION AS *AMICUS CURIAE* IN SUPPORT OF RESPONDENT** to be served via U.S. Mail on the following:

Andrew S. Gollin
310 West Wisconsin Avenue
Suite 700W
Milwaukee, WI 53203
andrew.gollin@nlrb.gov

Mr. Scott A. Gore, Esq.
Laner, Muchin, Dombrown, Becker, Leving and Tominberg, Ltd.
515 North State Street
Suite 2800
Chicago, IL 60654
sgore@lanermuchin.com

Mr. Yingtao Ho, Esq.
Previant, Goldberg, Uelmen, Gratz, Miller & Brueggeman
1555 North Rivercenter Drive
Suite 202
P.O. Box 12993
Milwaukee, Wisconsin 53212
yh@previant.com

s/ Dale L. Deitchler
Dale L. Deitchler
LITTLER MENDELSON, P.C.

Counsel for Amicus Curiae
International Foodservice Distributors Association